



APPENDIX "A".

Assistant Comptroller General of the United States
Washington.

A-81375

hdk

Jun. 28, 1943.

The Chief Clerk, Court of Claims.

Re: Charles E. Leydecker v. United States, C. Cls. No.
45299.

SIR:

Reference is made to letter of this office dated March 3, 1943, wherein, in response to the court's request of December 16, 1942, in the above-entitled cause, you were informed that in accordance with the findings and the opinion rendered December 7, 1942, by the Court of Claims, there is payable to the plaintiff as increased rental and subsistence allowances on account of dependent mother for the period from January 1, 1938, to December 7, 1942, inclusive, the sum of \$1,119.53.

A letter of April 29, 1943, from King and King, attorneys for the plaintiff, concerning the said computation is, in part, as follows:

"It is believed that this computation is in error in that it does not include any rental allowance, and also apparently is only the computation of the additional subsistence allowance due a Captain of plaintiff's length of service. We have been advised by the plaintiff that his mother did not occupy quarters, and he was not assigned quarters adequate for an officer with dependents, for the period from March 10, 1942, to December 7, 1942. He also advises us that he was promoted from Captain to Major from June 15, 1942.

"In view of the information furnished us by the plaintiff, it is believed that his pay accounts should be re-examined in order to determine the correct amount due him under the Court's decision. In the event it is determined that the computation of March 3, 1943, is erroneous, we will appreciate your filing a corrected computation in the Court at your earliest convenience."

The computation furnished to the court by the said letter of March 3, 1943, was based on the latest service record of plaintiff then available in this office—the Official Army Register of January 1, 1942, at page 519, which shows the plaintiff as a captain and the special findings of fact made by the court on December 7, 1942.

Paragraph 1 of the said special findings of fact, which apparently purports to set forth all commissioned service of the plaintiff, shows that he was appointed a second lieutenant, U. S. Army, on June 13, 1933; was promoted to first lieutenant on June 13, 1936, and to *captain* (temporary) on September 9, 1940. It does not appear that any evidence was presented to the court to show that the plaintiff had been promoted from captain to major. With respect to the contention that the plaintiff was not assigned quarters adequate for an officer with dependents for the period from March 10 to December 7, 1942, paragraph 3 of the said special findings of fact is, in part, as follows:

“* * * Since 1934 plaintiff and his mother have occupied quarters assigned to him which quarters have been adequate for an officer of his rank and length of service with a dependent. They have occupied Government quarters continuously since January 1, 1938, with the exception of the period from July 15, 1938, to August 13, 1938, during which time plaintiff was in a ‘travel status’ and no quarters at his permanent station were assigned to him.”

Said findings preclude the crediting to plaintiff with any additional rental allowance over the period January 1, 1938, to December 7, 1942, except for the period from July 15 to August 13, 1938, as found by the court in paragraph 6 of said findings and as credited in the said computation of March 3, 1943.

Subsequent to the furnishing of the computation of March 3, 1943, there became available to this office in due course pay vouchers covering the plaintiff's pay for the months of May and June, 1942. Attached to the June voucher, No. 1136 in the June, 1942, account of Major J. P. Bellamy, F. D., is an extract of Special Orders No. 127, War Department, Washington, D. C., dated *May 15, 1942*, announcing that plaintiff was temporarily promoted from

captain to major and a certificate, Headquarters Seventh Armored Division, Camp Polk, Louisiana, dated May 21, 1942, certifying that plaintiff was sworn in as a major May 16, 1942. On the basis of his promotion to major the plaintiff became entitled effective June 1, 1942, under the act of June 16, 1942, 56 Stat. 361, and opinion of the court of December 7, 1942, to two additional subsistence allowances on account of his dependent mother, and since he was credited with only one such allowance from June 1, 1942, in the computation of March 3, 1943, a substituted computation is furnished herewith which includes two additional subsistence allowances from June 1 to December 7, 1942, in the sum of \$266 and wherein the total amount of \$1,252.53 is computed as due the plaintiff, under the opinion of the court of December 7, 1942, as follows:

One subsistence allowance for the period from January 1 to August 31, 1938, 243 days at \$0.60 per day, \$145.80, and rental allowance for one room from July 15 to August 13, 1938, 29 days at \$20 per month, \$19.33, a total of \$165.13 (paragraphs 6 and 7, page 3 of opinion), which allowances were credited currently in the plaintiff's pay account but credit therefor was suspended in the disbursing officer's account and subsequently the amount thereof was checked against the plaintiff's pay for the period from February 1, 1939, to September 30, 1940	\$165.13
One additional subsistence allowance per day from September 1, 1938, to May 31, 1940, 639 days at \$0.60 per day as computed in my report of February 25, 1941, A-81375, to you ..	383.40
One additional subsistence allowance per day from June 1, 1940, to May 31, 1942, 730 days at \$0.60 per day	438.00
Two additional subsistence allowances per day from June 1, 1942, to December 7, 1942, inclusive, 190 days at \$1.40 per day, act June 16, 1942, 56 Stat. 361	266.00
Total amount	\$1,252.53

This revised computation is submitted for such consideration as the court may decide is proper in view of *Ruf v. United States*, 87 C. Cls. 248.

Respectfully,

(Signed) FRANK L. YATES,
*Assistant Comptroller General
of the United States.*

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